

**Letter of Findings: 01-20181989
Indiana Individual Income Tax
For The Tax Year 2017**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Husband and Wife's protest regarding credits taken on their 2017 Indiana IT-40 is denied. Husband and Wife claimed an estimated payment of \$850, but the Department's records only reflect an estimated payment of \$626.

ISSUE

I. Income Tax—Burden of Proof Assessment Incorrect.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-2-2; IC § 6-8.1-5-1; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009).

Taxpayers protest the Department's assessments of individual income tax for 2017.

STATEMENT OF FACTS

Husband and Wife ("Taxpayers") filed their 2017 Indiana IT-40 timely. The Indiana Department of Revenue ("Department") determined that Taxpayers took too much in credits and adjusted Taxpayers' return to reflect the Department's records.

The Department issued Taxpayers a proposed assessment for the amount of the decrease, plus penalty and interest. Taxpayers protested the assessment and waived their right to a hearing. Thus, this Letter of Findings is based on the information available to the Department and provided in Taxpayers' protest file. Additional facts will be provided as necessary.

I. Income Tax—Burden of Proof Assessment Incorrect.

DISCUSSION

The Department, based on verifiable information including Indiana real property records, found that Taxpayers misstated credits taken on their 2017 Indiana income tax return.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Thus, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

Indiana imposes a tax "on the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. The

presumption is that taxpayers file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered the taxpayers' Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayers' taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

In this instance, the Department determined that, based on verifiable records, Taxpayers only paid \$625 in estimated payments for tax year 2017. In their protest, Taxpayers state, "I believe what was originally filed was correct and I have attached supporting documentation to support my claim." Taxpayer provided copies of W-2s and tax returns. Upon review of Taxpayers' account with the Department shows that Taxpayer only paid \$625 in estimated payments for 2017, not the reported \$850. Taxpayers failed to provide sufficient evidence to show that they did in fact pay \$850 in estimated payments. Thus, Taxpayers did not meet their burden as described in IC § 6-8.1-5-1(c).

FINDING

Taxpayers' protest is denied.

December 10, 2018

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